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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YOR	TATE FILED: 8/28/09
JUAN FERNANDEZ,	:
Petitioner,	: 06 Civ. 7174 (WHP) (DFE)
-against-	: ORDER
PEOPLE OF THE STATE OF NEW YORK,	: : :
Respondent.	: :
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WILLIAM H. PAULEY III, District Judge:

On May 24, 2007, this Court referred this petition for a writ of habeas corpus to Magistrate Judge Douglas F. Eaton. Magistrate Judge Eaton issued a report and recommendation ("Report") on March 26, 2009. As of this date neither party has submitted any objection to the Report nor requested an extension of time in which to do so. This Court has reviewed the Report, finds that the Report is not facially erroneous, and affirms and adopts it.

Because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not be issued. See 28 U.S.C. § 2253(c). In addition, this Court certifies pursuant to 28 U.S.C. § 1951(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438 (1962).

The Clerk of the Court shall terminate all pending motions and mark this case

closed.

Dated: August 25, 2009

New York, New York

SO ORDERED:

WILLIAM H. PAULEY III

U.S.D.J.

Copies mailed to:

Juan Fernandez 35-28 99 Street Apt# 3-C Corona, NY 11368 Plaintiff <u>Pro Se</u>

Hon. Douglas F. Eaton